

From: Ian Ballantyne
To: Microsoft ATR
Date: 12/12/01 4:38pm
Subject: Microsoft Settlement

Dear Sir,

I am writing to comment on, and object to, the currently proposed settlement with Microsoft in the antitrust case.

The remedies in the Proposed Final Judgement specifically protect companies in commerce -- organizations in business for profit. On the surface, that makes sense because Microsoft was found guilty of monopolistic activities against "competing" commercial software vendors like Netscape, and other commercial vendors -- computer vendors like Compaq, for example. The Department of Justice is used to working in this kind of economic world, and has done a fair job of crafting a remedy that will rein in Microsoft without causing undue harm to the rest of the commercial portion of the industry.

But Microsoft's greatest single threat on the operating system front comes from Linux -- a non-commercial -- and it faces a growing threat on the applications front from Open Source and freeware applications.

The biggest competitor to Microsoft Internet Information Server is Apache, which comes from the Apache Foundation, a not-for-profit foundation. Apache runs an outright majority of web servers in the internet. Sendmail, and Perl, both of which also come from non-profits, are also critical backbones on the internet. Yet not-for-profit organizations have no rights at all under the proposed settlement.

Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that Microsoft need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "... (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..." Such language, and therefore the settlement, gives Microsoft the right to effectively kill products such as Apache, Sendmail, Perl, and every other not-for-profit software product that must in some way communicate or work with Microsoft products.

Section III(D) takes this disturbing trend even further. It deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware." In this section, Microsoft discloses to Independent Software Vendors (ISVs), Independent Hardware Vendors (IHVs), Internet Access Providers (IAPs), Internet Content Providers (ICPs), and Original Equipment Manufacturers (OEMs) the information needed to inter-operate with Windows at this level. Yet, when we look in the footnotes at the legal definitions for these outfits, we find the definitions specify commercial concerns only. It

therefore excludes those not-for-profit foundations and the developers associated with them from obtaining critical information to make the products of those foundations compatible and able to function with Microsoft products.

Under this deal, the government is shut out, too. NASA, the national laboratories, the military, the National Institute of Standards and Technology, even the Department of Justice itself, have no rights.

If this language gets through, MICROSOFT WILL FIND A WAY TO TAKE ADVANTAGE OF IT. Microsoft will find a way to shut out Open Source and not-for-profit developers and the products they work on. The proposed three person committee will be powerless to change this since it is a legally binding settlement. This settlement will further assist Microsoft to destroy any competition that Microsoft does not approve of, such as Apache, Sendmail, Samba, Perl, and the Linux operating system itself.

This settlement at best does extremely little to curb the power of Microsoft. In my opinion as a professional software developer, this settlement in fact gives Microsoft even more power than they had before. That's because they now have a legally binding document that allows them to fully legally justify their refusal to provide critical information, or for that matter any information at all, to not-for-profit foundations and individuals who may develop products that must somehow work with Microsoft products. If this deal goes through as it is written, Microsoft will emerge from the case not just unscathed, but stronger than before and with what is essentially a stamp of approval from the United States Department of Justice itself for their business practices in the past.

For the reasons stated above I object to the proposed settlement between the United States Department of Justice and Microsoft.

I support a much more stringent settlement, such as that proposed by the 9 states that have refused to sign onto the proposed antitrust settlement. The settlement proposed by these 9 states provides much better opportunity for competition in the software market place. It makes Microsoft much less able to discriminate to whom they provide necessary technical information to make competing software products, particularly Open Source products and products from not-for-profit foundations, interoperable, therefore stimulating competition and variety in the software market place.

Yours faithfully
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